



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 1

RIN 2900-AO45

Disclosures to Participate in State Prescription Drug Monitoring Programs

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as final, without change, an interim final rule published in the Federal Register that amended the Department of Veterans Affairs' (VA) regulations concerning the sharing of certain patient information in order to implement VA's authority to participate in State Prescription Drug Monitoring Programs (PDMP).

DATES: This rule is effective on [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Director, Information Access and Privacy Office (10P2C1), Veterans Health Administration, 810 Vermont Avenue, NW, 20420, 704-245-2492. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 11, 2013, VA published in the Federal Register (78 FR 9589) an interim final rule promulgating 38 CFR 1.483 and 1.515, regulations to implement certain provisions of 38 U.S.C. 5701 and 7332. The interim final rule authorized VA to disclose certain types of information about veterans to

PDMPs. The types of information that VA is authorized to disclose to PDMPs include demographic information of veterans and dependents of veterans who are prescribed a controlled substance, information about the prescribed controlled substances, and prescriber information. Interested persons were invited to submit comments on or before April 12, 2013, and we received 2 comments. Both comments expressed support for the interim final rule and do not recommend any changes to the rule. One commenter suggested that VA focus on the states with a high veteran population and work with the Office of National Drug Control Policy. We appreciate the commenter's suggestion. VA will take this suggestion into consideration. Based on the rationale set forth in the interim final rule, we adopt the interim final rule as a final rule without change.

Effect of rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-12. This regulatory action affects only individuals and will not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select

regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA’s impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA’s Web site at <http://www1.va.gov/orpm/>, by following the link for “VA Regulations Published.”

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for this rule are 64.012 Veterans Prescription Service and 64.019 Veterans Rehabilitation-Alcohol and Drug Dependence.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veteran Affairs, approved this document on February 27, 2014, for publication.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Parking, Penalties, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

Dated: March 11, 2014

William F. Russo, Deputy Director,
Office of Regulation Policy and Management,
Office of the General Counsel,
Department of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 1, which was published on February 11, 2013, at 78 FR 9589, is adopted as a final rule without change.

[FR Doc. 2014-05691 Filed 03/13/2014 at 8:45 am; Publication Date: 03/14/2014]